IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

WP(C).No. 454 of 2004(D)

PETITIONER:

SMT.T.K.PARIMALAM,
CHATHAMPARAMBIL HOUSE, VENNALA P.O., KOCHI-28.

BY ADV. SRI.S.RAMESH BABU

RESPONDENTS:
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1. **KERALA STATE ELECTRICITY BOARD,**
   REPRESENTED BY ITS SECRETARY, VYDYUTHI BHAVANAM,
   PATTOM, THIRUVANANTHAPURAM.

2. **THE SUB ENGINEER,**
   ELECTRICAL SECTION, PALARIVATTOM.

3. **THE ASSISTANT ENGINEER,**
   ELECTRICAL SECTION, PALARIVATTOM.

4. **THE ASSISTANT EXECUTIVE ENGINEER,**
   ELECTRICAL SECTION, PALARIVATTOM.

BY ADV. SRI.K.R.SADASIVAN NAIR
SRI. C.K.KARUNAKARAN SC. , KSEB

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.(C) NO. 454/2004

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE DEMAND DT. 18.10.03

EXT.P2:- COPY OF THE MAHAZAR DT. 4.11.03.

EXT.P3:- COPY OF THE DEMAND DT. 5.11.03 FOR RS.1,06,409/-.

EXT.P4:- COPY OF THE JUDGMENT DT. 14.11.03 IN WP(C) NO.35927/03.

EXT.P5:- COPY OF THE DEMAND DT. 18.11.03 FOR RS.16,298/-.

EXT.P6:- COPY OF THE OBJECTION DT. 27.11.03 BY THE PETITIONER.

EXT.P7:- COPY OF THE SSI CERTIFICATE UNDER WHICH CONNECTION WAS EFFECTED UNDER L.T. IV.

EXT.P7(a):- COPY OF THE GAZETTE NOTIFICATION DT. 30.10.02 AMENDING REG. 42(d).

EXT.P8:- COPY OF THE ORDER DT. 22.12.03 OF THE 3RD RESPONDENT.

EXT.R4 SERIES:- SITE MAHASSAR .

\/TRUE COPY/

tss

KURIAN JOSEPH, J.

W.P. (C). NO. 454 OF 2004

Dated this the 15th day of June, 2007.

J U D G M E N T

The writ petition is filed mainly with the following prayers.

a) issue a writ of certiorari calling for the records leading upto Ext. P3, P5 and P8 and quash the same.

b) issue a direction to the respondents to regularise additional load, if any, and reimburse the excess recovered after adjusting fixed charges alone as contemplated in Regulation 42(d) as amended by Ext. P7(a).

2. As far as penalty for unauthorised connected load is concerned, it is now settled law in view of the Bench decision of this Court in W.A.1231/03 that the penalty has to be limited to the fixed charge portion. It is held that there shall not be any penalty by way of proportionate energy charges. The impugned demands are quashed making it clear that the liability of the petitioner shall only be for the penalty for fixed charge portion. The revised demand shall be issued to the petitioner and the amounts already remitted by the petitioner shall be adjusted.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

smp